

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JASON J. HALL, #252 285,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:14-CV-279-WHA
)	
KIM THOMAS, COMMISSIONER,)	
<i>et al.</i> ,)	
)	
Defendants.)	

ORDER

This matter is before the court on limited remand (Doc. 55) from the Eleventh Circuit Court of Appeals for a factual determination of when Plaintiff Jason Hall delivered to prison authorities for mailing his notice of appeal from this Court's September 12, 2017, judgment granting Defendants' motion for summary judgment. *Hall v. Thomas, et al.*, Court of Appeals Case No. 17-14831-K. The matter was referred to the Magistrate Judge, and by orders entered March 1, 2018, and April 23, 2018 (Docs. 57, 62), Defendants were directed to file supplemental evidentiary materials bearing on when Hall delivered his notice of appeal to prison authorities for mailing to the Clerk of this Court. Hall was given an opportunity to respond to Defendants' evidentiary submissions through a brief, countervailing evidence, or both. Any response to the Defendants' evidentiary submissions was due by May 14, 2018. Hall filed no response.

On June 21, 2018, the Magistrate Judge issued a Report and Recommendation setting forth the procedural and factual background and finding the unrefuted evidence reflected Hall delivered his notice of appeal to prison authorities for mailing to the Clerk of this Court or deposited such in the institution's internal mail system between October 20–26, 2017. No timely objection has been filed to the Magistrate Judge's Recommendation.

Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is

ORDERED and ADJUDGED that:

1. The Recommendation of the Magistrate Judge (Doc. 65) be and is hereby ADOPTED:
2. Hall's Notice of Appeal is deemed filed on October 27, 2017—the date it was received for filing by this Court—and therefore, untimely filed under Rule 4(c)(1)(A)(i-ii), Fed. R. App. P.

The Clerk of Court is DIRECTED to return the supplemental record of these proceedings to the Eleventh Circuit Court of Appeals.

DONE, this 16th day of July 2018.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE